IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Crl.MC.No. 2502 of 2007()

C.C.1524/2002 OF J.F.C.M-II, KOLLAM

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PETITIONER: ACCUSED

T.BINU, S/O.THANKAPPAN, AGED 36
YEARS, PATTATHIL VEEDU, THAZHAM MIDDLE,
MEENADU VILLAGE, CHATHANOOR P.O., KOLLAM.

BY ADV. SRI.PRADEESH CHACKO

RESPONDENTS: STATE

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI - 31.

2. NIZAMUDEEN, THODIYIL PUTHENVEEDU,
VALATHUNGAL P.O., ERAVIPURAM, KOLLAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/08/2007 ALONG WITH CRMC NO.2511/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.2502 & 2511 of 2007

Dated this the 6th day of August 2007

O R D E R

The common petitioner in these two petitions face indictment for offences punishable under Section 138 of the Negotiable Instruments Act in two different prosecutions. The petitioner did not appear before the learned Magistrate. Consequently, the cases have now been transferred to the list of long pending cases and coercive processes have been issued by the learned Magistrate. The petitioner finds non-bailable warrants issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. The petitioner is willing to surrender before the learned Magistrate. His absence was not wilful and was due to reasons beyond his control. He apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007